

August 18, 2004

TODD LIVINGOOD  
925 E HEMLOCK ST  
KENT WA 98030

Subject: Complaint filed against Debra Raplee - PDC Case No. 04-399

Dear Mr. Livingood:

The Public Disclosure Commission staff has completed its investigation of your complaint filed on January 12, 2004, alleging that Debra Raplee sponsored, with actual malice, political advertising that contained false statements of material fact about Leona Orr, a 2003 candidate seeking re-election to the Kent City Council.

The PDC staff reviewed your allegations in light of the following statute:

**RCW 42.17.530** prohibits a person from sponsoring, with actual malice, political advertising that contains a false statement of material fact about a candidate for public office. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that Debra Raplee, also a 2003 candidate for the Kent City Council, sponsored, with actual malice, a political advertisement that contained false statements of material fact about Leona Orr. Specifically, you also alleged that Ms. Raplee sponsored, with malice, a political advertisement that contained these false statement:

*Leona Orr has welcomed [a convicted sex offender] to Kent.*

*Leona Orr has put you and your children at risk by voting to allow sex offender housing in Kent.*

We found that:

- The Washington State Legislature passed legislation in 2001 and 2002 that established siting requirements for Secure Community Transition Facilities (SCTFs) to be followed by the Washington State Department of Social & Health Services (DSHS) and local jurisdictions.

- Cities and counties were required to amend their local comprehensive plans by September 1, 2002 [later extended to October 1, 2002], to allow for the siting of SCTFs. Any local jurisdiction failing to plan for the siting of SCTFs effectively forfeited its authority or oversight in the siting process if DSHS later elected to site an SCTF within the jurisdiction.
- The Kent City Council, on September 17, 2002, passed Ordinance 3615, which provided for the siting of SCTFs within the city of Kent.

While ordinance 3615 did not affect whether the state could site a Secure Community Transition Facility within the city of Kent, the ordinance did provide for the siting of SCTFs, should the city be selected by the state for siting. Thus, the first statement in the ad, *“Leona Orr has welcomed [a convicted sex offender] to Kent”* was an expression of the Raplee campaign’s interpretation of the meaning of Leona Orr’s vote for ordinance 3615. As such, it represented the campaign’s opinion and was not a statement of fact covered by RCW 42.17.530.

Likewise, the second statement in the ad, *“Leona Orr has put you and your children at risk by voting to allow sex offender housing in Kent”* represents the Raplee campaign’s opinion of the meaning of the vote and of the vote’s impact. Thus, it was not a statement of fact covered by RCW 42.17.530.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Debra Raplee.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll-free at 1-877-601-2828.

Sincerely,

Vicki Rippie  
Executive Director

c: Debra Raplee